

Stone Old Killers

In Missouri, Senior Citizens Who Kill Often Get Away with Murder

by Shawn Shinnerman

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Donald Rowland would tell police he looked at the clock the exact moment he made up his mind. It was 1:18 on Halloween morning 2014. Rowland, an 88-year-old veteran and retired bank executive who'd lived the spotless life of a principled military man, decided that he and his wife of 64 years should die.

"I kept telling myself, 'You shouldn't do it,'" he said later.

But his course was set. It was 6 a.m. when he carried through with the idea, using a large kitchen knife to stab and kill 86-year-old Betty Rowland while she slept on her side of the bed.

His attempt to use the same knife on himself did not go as planned; the pain was too much. Efforts to slit his wrists and the insides of his elbows were futile, although they weakened him such that by the time his daughter showed up later that morning he had been rendered immobile, in a pool of blood. He asked her to smother him with a pillow.

Neighbors reacted with shock. The charges were first-degree murder and armed criminal action. Bond was set at \$1 million.

In early March, Rowland accepted a plea deal. In exchange for an admission of guilt, prosecutors agreed to reduce the charges all the way down to involuntary manslaughter.

Six weeks later, Rowland appeared in court again, a wispy-haired man with bushy eyebrows in a striped prison jumpsuit. This time, he was here for sentencing. Boone County Circuit Judge Kevin Crane delivered the decision: a suspended sentence, with five years probation. Rowland would only serve prison time if he violated the terms.

Five and a half months after killing his wife, Donald Rowland was free.

And his case is not an outlier. In the 30 homicides the *Riverfront Times* identified in recent decades in Missouri involving offenders over the age of 75, only one person was sentenced to prison time.

A whole set of societal questions have come along with the combination of aging baby boomers and advancements in modern medicine, the result of which has drastically increased the population of senior citizens. Often overlooked are the occasions in which the judicial system must decide the fate of an elderly criminal.

The cases that are a part of this investigation were gleaned from fifteen years of the FBI's supplemental homicide reports dating back to 2001. They involve killers as old as 93. On par with the rising prevalence of murder-suicide among the elderly, according to studies by the Violence Policy Center and others, a dozen of the cases involved incidents in which no one was left to prosecute — the cases were ruled murder-suicides. In a couple others, the acts were deemed justifiable.

But in those instances in which someone came under investigation, the conclusions offer a glimpse into judicial empathy for the elderly. They are stories of fed-up spouses, neighborly disputes and attempted murder-suicides in which the assailant survived. They are stories about what happens when you go your whole life without shooting or stabbing someone, and then one day, you do.

They are stories that raise the question of whether, at a certain age, you can get away with murder.

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By all accounts, Donald Rowland had lived a model life. A 30-year veteran of the United States Air Force, Rowland served in administrative roles during World War II, and spent time in Korea, Japan and Vietnam. He retired at age 47, a lieutenant colonel.

When his time in the military concluded, Betty and Donald moved around before settling in Columbia, Missouri, in 1993. Rowland worked as a bank teller, climbing the ladder to vice president of a local branch and, along the way, earning friends in some well-respected pockets of the Midwestern college town's community. He drank infrequently — a glass during nights out at the country club — and had been one of just a few people at his high school who'd refused to pick up cigarettes. He and Betty raised four kids, and over 64 years of marriage, the family tree grew to include thirteen grandchildren and six great-grandchildren.

"I never saw him waiver," said Robin Jones, Rowland's oldest daughter, at his sentencing hearing. "He has been my strength and moral compass. This was my dad's honor. His life."

Betty was a lover of music, a piano teacher who played organ at church and at the services of military men who'd died. When the Air Force sent Donald to Japan, Betty came along and taught piano at Yokota Air Base. She spent her elder years playing bridge with friends, who enjoyed her sense of humor and appreciated her kindness toward any mistakes they made.

Not long before she died, Betty, who'd been in a wheelchair for years, suffered a stroke. She became more dependent on Donald. When their kids pushed for the couple to make a move toward assisted living, they reluctantly agreed.

What made the circumstances of her sudden death all the more shocking was the way she'd spoken to friends in the days prior. Betty Rowland did not want to die.

"She was very excited about her upcoming trip to Hawaii with Don," wrote Nancy Rogers, who played bridge with Betty, in a hand-written letter to

Judge Crane. "She spoke glowingly about a recent trip to a resort in Mexico she had taken with Don and her son's family."

Interviewed from his hospital bed at about 5:40 p.m. the day of the murder, Rowland told investigators about the root of the anxiety he'd been experiencing. About how he and his wife had been sorting through their belongings to try to lighten the load for a move to the smaller place. About how he hadn't wanted to get rid of some of his World War II stuff. About how he'd brought out their collection of photographs and then surrounded his wife with six boxes, one for each of the kids, plus a throw-away box and one for keepers.

"And that's how you know you're just getting old," he said.

The night before the murder, at about 10:30 p.m., Rowland took for the first time a pill called Celexa, an antidepressant he'd been prescribed earlier that day. He was under the impression, he told police, that the pill would help him sleep, something that had been scarce lately. It was the combination of this pill with Rowland's sleep deprivation and existing prostate medicine, Oxybutynin, that Dr. Tahir Rahman would say might have caused an adverse reaction. The prosecution rebutted this claim, pointing to Rowland's calm demeanor for proof of his mental stability.

At the end of the interview with police, an investigator informed Rowland they had a warrant for his arrest.

"And I know you knew that was coming," the officer said.

"Yes," Rowland responded. "It's a terrible thing to think that at 88, I'll spend the rest of my life in jail."

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The Rowland case was not the first Columbia had seen involving an elderly offender in a homicide. On November 14, 2003, 83-year-old Marjorie Leslie called police to her home, where they found her husband, James, dead on his back, holding a large kitchen knife.

Marjorie told police that James, who was 86 and had severe dementia, had become more aggressive toward her recently. On the morning of the incident, she said, he'd been following her around the house nagging until the argument came to a head in the kitchen. When James got a knife, she retreated to the bedroom to get her gun, then returned. Marjorie told police she couldn't remember the specifics of what James said to her next, but she remembered the gap between them closing by a few feet, and she shot him twice in the upper torso.

Police quickly started to raise questions. The positioning of the knife in James' right hand looked more suited to do the chopping it was intended for than to stab someone, an officer noted. And, if Marjorie was as agile as she'd claimed — and James as immobile — police wondered why she hadn't simply fled the home to a neighbor's.

Additionally, as police canvassed the block to talk to people in surrounding houses, one neighbor informed authorities that a few months prior, Marjorie had told her that if anything ever happened, she needed to tell police that James abused her. She added that Marjorie said "the problem with technology was that it keeps people alive too long" and "they shoot horses when they get too old." The woman had taken the statements as jokes.

Leslie was charged with second-degree murder. She pled to voluntary manslaughter and received probation, plus a five-year deferred prison sentence. She was released from probation, ahead of schedule, in 2007. In 2010, she died.

As it happened, Kevin Crane, the judge in the Rowland case, served as prosecutor in the Leslie case. Crane declined to talk about Rowland, citing the defendant's continuing probation under his watch, but openly discussed the case of Marjorie Leslie.

Crane's underlying thesis was that in any case, many factors should be considered in reaching a plea deal or providing a sentence. In the Leslie case, Crane considered the defendant's lack of criminal history, her husband's cognitive state, his opinion that she was unlikely to reoffend, and

the fact that the victim's family — which consisted of the couple's sole son — was pulling for probation.

He also considered age.

"I think when you start getting into that age where you're having to wrestle with, 'Am I going to be able to take care of my spouse? Am I going to have to move into a nursing home? Can I afford it?' I think those are stressors that exist in your late 70s that don't necessarily exist when you're younger than that," Crane says.

In the Rowland case, JR Hobbs, Rowland's attorney, argued for probation by citing Rowland's character, drawing attention to his squeaky-clean record and 30 years in the military. He talked about several mitigating factors, including the medication Rowland had recently started, and hit on how the Rowlands' impending move to assisted living might have impacted Donald's psyche.

"His sleep deprivation, his anxiety, giving up his belongings, moving to assisted living, the fear of the unknown, coupled with his failure to seek the type of treatment that he has since sought, all contributed to this regrettable situation," Hobbs said in court. The totality of the factors, he said, showed that Rowland "certainly was not one motivated with an evil spirit."

Boone County Assistant Prosecuting Attorney Merilee Crockett raised questions about the impact of the medication and the characterization of Rowland's state of mind, saying that if the case had gone to trial, it probably would have come down to a "battle between the psychological experts."

"The state's evidence would have been that when police were called to the house, Mr. Rowland very rationally and calmly explained his reasonings for committing this act," she said.

Putting specific evidentiary factors aside, sending elderly defendants to prison presents logistical complications.

As of June 2015, only about 60 of the roughly 32,000 inmates in the Missouri state prison system were 70 years of age or older at the time of their incarceration. Including inmates who've grown old behind bars, the state prison system houses about 260 inmates over the age of 70.

While the elder population remains a relatively small part of the equation, the number of aging offenders — defined as those 50 or above — has risen by more than 70 percent in the last decade.

Such residents complicate the system. A 2012 report by the American Civil Liberties Union found that it costs an average of about \$68,000 a year to incarcerate someone aged 50 or older, compared to about \$34,000 for the average prisoner.

In response to the changing demographics of Missouri prisons, the state department of corrections now operates five pre-hospice facilities, known as enhanced care units. Stationed on campus at correctional centers, the ECUs provide care for the elderly. All five have opened since 2010 — two this year — and the department has plans to open more.

The challenges of locking up an older defendant were not lost on Crane. And Crockett — who, as prosecutor, recommended a seven-year prison sentence for Rowland but deferred to the court on the issue of whether to grant probation — raised a similar concern.

In court she argued that Rowland had been clear-headed when he took the life of someone who did not want to die. Later, though, she says that she wonders what a stricter punishment would look like for someone of Rowland's age. She notes his deteriorating health during the judicial process.

"There comes in all the questions of what do we do with someone who is 88 years old," she says.

All other things besides age being equal, Crane says, he'd have viewed the Leslie case differently had it involved a couple in their mid-40s.

"I would be more likely to put the 83-year-old on probation or recommend a less harsh punishment than the 45-year-old," he says.

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There are other cases. In Portageville, a little town at the top of the bootheel, an older father killed his 20-year-old son.

Eugene Pardon, then 76, and his common-law wife Linda Nolen, 44, awoke to screaming during the early morning of April 28, 2006. Pardon's son Dusty, who had a history of drug and alcohol abuse as well as violence, was fighting with his 15-year-old girlfriend. He had her pinned on the bed.

According to statements given to police, Linda broke open the locked door, and Dusty redirected his drunken anger toward Linda and Eugene. When Dusty blocked attempts to call 911, Eugene, who had retrieved a pistol from his room, decided he'd try to drive to the police department for help. Dusty confronted him in the driveway, waving a beer bottle as a weapon. Eugene raised the gun, at which point, he told police, Dusty cajoled him to pull the trigger. He fired a single shot into his son's head.

The charge was second-degree murder and armed criminal action, but the two sides reached a plea deal: involuntary manslaughter. Pardon got three years probation.

On July 24, 2008, Jackie Williams and Consietta Shirley got into it on the way to a small gathering of women at a Kansas City apartment complex, according to police documents. A resident told police that after buzzing the two into the building, she heard fighting outside her door, and then a loud thud. When she came out, Shirley, 49, was face down at the bottom of the stairway.

Williams, who was 80, was originally investigated for aggravated assault. When Shirley died at the hospital the next day, it became a case of murder.

Yet she was never actually charged with anything. The Jackson County Prosecutor's office was unable to provide details about why the case disappeared.

More, still: A jury acquitted a 76-year-old woman in Eldon of charges she ran over and killed the wife of the man with whom she was having an affair in 2004.

Citing an inability to overcome the claim of self-defense, the Jackson County Prosecutor's office decided to drop a case involving an 88-year-old man who shot and killed a 29-year-old during an argument in a Kansas City apartment in 2009.

In 2010, in rural Cedar County, an 84-year-old man shot and killed his 34-year-old stepson during an argument in their front yard. Murder charges were filed, then dropped. But a new prosecutor reopened the case in 2012, and Sammie Harris was eventually convicted of voluntary manslaughter and second-degree assault. He received five years probation.

Arnold man Edwin Hipp will be the next to test the system. The 83-year-old told police he shot his wife twice, once in the abdomen and a second time close range in the neck, according to the Post-Dispatch. He'd wrestled the gun away from her after she pulled it from a recliner during an argument, he told police. He is charged with second-degree murder and armed criminal action. The next hearing is scheduled for July 27.

In the lone exception to these elderly offenders avoiding prison time, a property-related dispute between neighbors in rural Wright County came to a head in 2008. Charles Barnes, 80, shot and killed 69-year-old John Hamrick.

Barnes, too, pled guilty, but this time prosecutors maintained the charge of second-degree murder. He was sentenced to ten years in prison. He died six years in, of apparent natural causes, at the Eastern Reception, Diagnostic and Correctional Center in Bonne Terre.

And then there are the dozen murder-suicides among the 75-and-over crowd, which — given the shakiness of the numbers in the supplemental homicide reports — likely only represent a portion of such incidents in Missouri over the last decade and a half. (One expert estimates the number is "much higher.")

Among the cases that surface from the FBI's Missouri data, there is a split between cases in which there are signs of an agreement among husband and wife and cases in which there was seemingly no such pact.

Within the latter group, the stories start to sound so similar they're tough to distinguish. They are male perpetrators with ill female spouses. The stress of caregiving permeates. A controllable life slips away. To the surface rises the pain in watching your life partner deteriorate.

In St. Louis County, in 2008, an 85-year-old woman in recent worsening health was found deceased, lying on her side with her hands tucked under her head. A son told police that he was sure his father, who was found with a self-inflicted gunshot wound a room over, feared being alone.

In Fenton, in 2014, an 81-year-old man called his daughter to say that he had just shot and killed his wife, that he could not stand to see her in her current condition, that he planned to do himself next.

In Liberty, in 2004, police found the lifeless bodies of an 82-year-old man and 85-year-old woman. Their faces were cherry red, the effects of carbon monoxide poisoning. Wine glasses were sitting out as if they'd shared a final glass.

Murder-suicide isn't reliably tracked in any one national database. Data on such cases among the elderly is scarce, but there is growing evidence that the phenomenon is occurring more frequently.

Since the Violence Policy Center started tracking murder-suicides through media reports in the early 2000s, the percentage of murder-suicides that involved an offender over the age of 55 has grown from 21 percent to 33 percent. Two-thirds of that increase came from 2011 to 2014, the three most recent years included in the study.

Dr. Donna Cohen is a University of South Florida researcher and an expert on the topic of elderly murder-suicide. On several occasions, she has presented her findings at trial. Her research shows 2016 is on track to

double 2015 in murder-suicides among individuals 55 and over. So far this year, her researchers have come across 35 such cases across the country.

The hardest question to answer is why. Cohen believes it is a complex web that starts but does not end with a basic population increase among the elderly. She cites parallel factors. Social values about the meaning of life have shifted. Meanwhile, men in the baby boomer generation tend to hold a different view of their role within the family, a role that can be deeply rooted in control.

The circumstances of age can chisel away at the foundation. In these instances of murder-suicides predominantly committed by elderly males, the integrity of a relationship can come under attack by worsening health problems, either suffered by the eventual perpetrator or his wife. In both instances, Cohen says, the provider feels an inability to offer adequate care.

Cohen finds further evidence in the modest, middle-class homes in which these incidents usually occur.

"It happens in a subgroup of our population where people have built the world around them," she says.

When a murder-suicide doesn't go as expected, leaving an offender alive to face the charges — and, for that matter, when an elderly perpetrator is at the center of any homicide — the judicial system is left a difficult task.

According to case law, the age of the defendant should not be a factor in sentencing, says Bobbi Flowers, co-director of the Center for Excellence in Elder Law at the Stetson University College of Law. Defense attorneys have tried for years to argue the additional significance of, for example, a 10-year sentence for a 70-year-old versus the same sentence for a 30-year-old, Flowers says. One might mean life, the other, a landmark. But the courts have rejected the distinction.

Yet any prosecutor would take into account the biases a jury might carry toward an elder defendant, says Flowers, a former prosecutor herself. Age, then, finds an easy path into plea negotiations.

In Cohen's experience, in caregiver cases specifically, judges have wrestled with how to hand down sentences as they weigh the killer's age, health and involvement with caregiving.

And yet the victim's characteristics also matter. Cohen's testimony has provided proof for some judges that caregiving is an added and significant stressor for an elderly individual. But one judge drew a distinction when Cohen was brought in during a case involving the death of a younger individual who was severely disabled. Cohen's research, the judge said, couldn't be applied to all caregiving situations, but rather only proved the weight of the job when it came to elder care.

There are no judicial guidelines for sorting out caregiver homicides.

"The question becomes," says Cohen, "How do you weigh the mitigating circumstances?"

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When it came time for Judge Crane to deliver his sentencing decision in the case of Donald Rowland, he asked the defendant to step up to the stand with his lawyer. Hands cuffed in front of him, Rowland asked if he could make a statement.

"That's up to your attorney," Crane replied.

Rowland and Hobbs conferred.

"I'm obviously very sorry this had happened," Rowland began. "I should have received medical treatment by a qualified person, but I didn't realize the severity of it."

He brought up the Celexa and the delirium it can cause.

"I loved my wife," he said. "We had a good life."

Rowland then outlined the three times in his life he'd been scared. The first was the day Betty had a stroke. The second was the day she had a seizure.

"And today's the third day," he said. "I'm — I'm sorry that it happened. I couldn't have done it if I had been in my right mind."

Crane read the sentence. *Hearing no legal cause why judgment and sentence should not now be pronounced upon you...*

Seven years, with a "suspended exposition of sentence," and five years probation. As long as he stays clean for five years and successfully completes the terms of his probation, Rowland never has to report to prison. If he has a brush with the law, he could be on the hook for the full sentence. But Rowland is now 89 years old.

Crane's decision meant he'd be released that afternoon.

But before adjourning the court, he addressed Rowland directly.

"I do believe you loved your wife," he said, and then added, "I never know whether I'm doing the right thing up here or not."